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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,505	05/15/2001	Naoaki Niwa	D-1082	7890
32628	7590	06/19/2006	EXAMINER	
KANESAKA BERNER AND PARTNERS LLP SUITE 300, 1700 DIAGONAL RD ALEXANDRIA, VA 22314-2848			NELSON, FREDA ANN	
			ART UNIT	PAPER NUMBER
			3639	

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/854,505

Applicant(s)

NIWA, NAOAKI

Examiner

Freda A. Nelson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The communication received April 5, 2006 is acknowledged and entered. Claims 1-5 and 7-16 are currently pending.

Response to Arguments

Applicant's arguments, see page 1 of the response filed April 5, 2006 with respect to the rejection(s) of claim(s) 1-2, 5, 10-11, 13 and 16 U.S. C. under 102(a) and claims 3-4, 7-9, 12, and 14-15 under U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Rive (US Patent Number 6,281,894) in further view of Nguyen (US Patent Number 6,556,894), still in further view of Zur et al. (US Patent Number 6,178,225).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-5, 7-9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rive (US Patent Number 6,281,894) in view of Nguyen (Patent Number 6,556,894), in further view of Zur et al. (US Patent Number 6,178,225).

As for claims 1 and 16, Rive discloses a method of conducting a business with a treating apparatus, comprising:

installing the treating apparatus to a user (col. 11, lines 55-63);

using the treating apparatus upon request from the user and permission of the seller side through the Internet (col. 16, lines 18-34; col. 18, lines 33-46);

measuring a using time of the treating apparatus by the user through the Internet (col. 15, lines 23-32; col. 18, lines 33-46); and

charging a fee of the treating apparatus based on the using time of the treating apparatus, said fee of the treating apparatus including a part, based on the using time, of an entire cost of the treating apparatus (col. 18, lines 33-46).

Rive does not disclose connecting the treating apparatus to a server on a seller through an Internet. Nguyen discloses that the host computer 2 is connected to the measuring apparatus 1 via a data transmission cable 3 having, for example, the RS-232C cable configuration. More specifically, a CPU 21 of the host computer 2 shown in FIG. 2 is connected to the CPU 15 of the measuring apparatus 1 via an I/O circuit 22 in the host computer 2, the transmission cable 3, and the I/O circuit 18 in the measuring apparatus 1 (col. 4, lines 53-65). Zur et al. disclose that suitable digital X-ray systems for digital X-ray imaging system 12 are conventional X-ray systems retrofitted with a digital X-ray detector or integrated systems including a digital X-ray detector, preferably modified to accommodate a metering system and internet connectivity (col. 3, lines 47-51); and providers of digital X-ray system 12 may supply digital systems at prices which are reduced or competitive with conventional X-ray systems, or alternately, systems

may be placed at customer facilities as part of a leasing arrangement. The provider, via the service center 16, receives a revenue stream from imaging procedures performed using the equipment. The user, benefits from "per image" expenses for digital X-ray imaging that are lower than the per image expenses associated with conventional X-ray imaging and film processing, handling etc (col. 4, lines 4-18). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention Rive to include the feature of Nguyen and Zur et al. in order to permit the seller to connect a treating apparatus to a buyer through the Internet.

As for claim 2, Rive discloses a method of conducting a business with a treating apparatus according to claim further comprising downloading a program to be used for the apparatus from the server through the Internet (col. 12, lines 40-42).

As for claim 3, Rive discloses a method conducting a business with a treating apparatus according to claim 1, further comprising diagnosing a fault the treating apparatus through the Internet (col. 6, lines 18-34).

As for claim 4, Rive discloses a method conducting a business with a treating apparatus according to claim 3, further comprising charging a fee for diagnosing the fault of the treating apparatus through the Internet (col. 15, lines 35-46).

As for claim 5, Rive discloses a method of conducting a business with a treating apparatus according to claim 1, wherein said treating apparatus at least one a measuring apparatus and an analyzing apparatus, and the fee is one of a whole cost and a part thereof (col. 15, lines 23-32; col. 18, lines 33-46).

As for claim 7, Rive discloses a method of conducting a business with a treating apparatus according to claim 1, wherein said fee is also calculated based on a using condition including one of a program to be used, downloading a program of the treating apparatus, and diagnosing a fault of the treating apparatus in case of a fault condition (col. 15, lines 23-32; col. 18, lines 33-46).

As for claim 8, Rive discloses a method of conducting a business with a treating apparatus according to claim further comprising connecting the seller side to the server through the Internet to prove the fee of the treating apparatus at the user to the seller side (col. 15, lines 23-32; col. 18, lines 33-46).

As for claim 9, Rive discloses a method of conducting a business with a treating apparatus according to claim wherein said seller side provides an update program and a new program for the treating apparatus to the server to allow the user to access to information of the update and new programs {col. 17, lines 13-34).

2. Claims 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rive in view of Nguyen (US Patent Number 6,556,894) in further view of Zur et al. (US Patent Number 6,178,225), still in further view of Davis et al. (Patent Number 6,381,343).

As for claims 10 and 11, Rive discloses a system of conducting a business with a treating apparatus, comprising:

a terminal connected to the treating apparatus on a user's side, said terminal connecting the treating apparatus to an Internet (col. 20, lines 9-22; col. 18, lines 30-49); and

accounting means installed at a server on a seller's side and connected to the Internet, said accounting means being actuated whenever the treating apparatus is used, calculating a fee according to a using condition of the treating apparatus through the Internet and charging the fee to the user, said fee including a part, based on the using time, of an entire cost of the treating apparatus.

Rive does not disclose an accounting means installed at a seller's side. Davis et al. discloses that the system can track other characteristics of the session for such purposes as accounting. Therefore, it would have been obvious to modify the method of Rive to include the accounting feature of Davis et al. to maintain a better tracking of usage fees.

As for claim 12, Rive discloses a system of conducting a business with a treating apparatus according to claim 10, further comprising means for storing information used by the treating apparatus at the server, said storing means including a program to be used for the apparatus and a fault-diagnosing program (col. 15, lines 35-46; col. 11, lines 55-63).

As for claims 13-15, Rive discloses a system of conducting a business with a treating apparatus according to claim 10 wherein said treating apparatus at least one of a measuring apparatus and an analyzing apparatus, and the fee is one of a whole cost

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and a part thereof; and wherein said fee is also calculated based on a using condition including one of a program to be used, downloading a program of the treating apparatus, and diagnosing a fault of the treating apparatus in case of a fault condition (col. 17, lines 13-34; col. 15, lines 23-32; col. 1, lines 14-20).

Conclusion

3. The examiner has cited prior art of interest, for example:

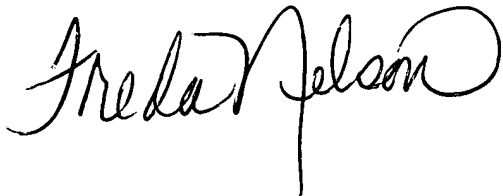
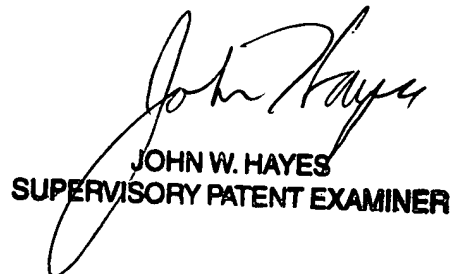
1) Chirnomas (US Patent Number 6,917,853), which discloses a method and apparatus for controlling rented or leased loaned equipment.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freda A. Nelson whose telephone number is (571) 272-7076. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FAN 06/07/2006

A handwritten signature in black ink, appearing to read "Freda Nelson". The signature is fluid and cursive, with a large loop at the end.A handwritten signature in black ink, appearing to read "John W. Hayes". The signature is fluid and cursive, with a large loop at the end.

JOHN W. HAYES
SUPERVISORY PATENT EXAMINER